

Budget and Appropriations Ordinance

Ordinance # 04-100-04

Article I. Purpose

1.01. Purpose. The purpose of this ordinance is to implement a method for preparing, adopting, and implementing a tribal budget for all tribal governmental operations. This ordinance is adopted pursuant to Article IV, Section 1 and Section 7(i), and Article V, Section 5(a)(6) and Section 5(c) of the Constitution.

Article II. Adoption; Amendment; Repeal; Severability

2.01. Adoption. This Ordinance is re-adopted by resolution # 04-1006-396.

- a. Adopted by Resolution # 02-0808-4 which superseded ordinance # 01-400-04.
- b. Amended by Resolution # 03-0611-162 - regarding amendments to auditing processes.
- c. Amended by Resolution # 03-0625-189 - regarding amendments for purchasing procurement processes.
- d. Re-Authorized by Resolution # 04-1006-396 - re-authorizing ordinance, and amending ordinance regarding enterprise revenue projections, among other actions.
- e. Emergency Amendments to Budget Modification Authority by Resolution # 05-0817-391.
- f. Emergency Amendment to Budget and Appropriations Ordinance to extend the time that Tribal Council must approve the tribal budget for the next fiscal year from the month of October to the month of November by Resolution # 06-1101-750.
- g. Permanent Adoption of Emergency Amendment to extend the time that Tribal Council must approve the tribal budget by Resolution # 06-1220-844.
- h. Emergency Amendments to allow the Ogema to authorize budget modifications not to exceed 10% of a program's total original budget without Tribal Council approval by Resolution #08-0123-21.
- i. Permanent Adoption of amendments to allow the Ogema to authorize budget modifications not to exceed 10% of a program's total original budget without Tribal Council approval by Resolution #08-1212-405.

2.02. Amendment. This Ordinance may be amended by the Tribal Council in accordance with the Constitution and any rules set forth governing amendment of laws of the Little River Band of Ottawa Indians.

2.03. Severability Clause. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

Article III. Definitions

3.01. Definitions. For purposes of this Ordinance, and as set forth in the Revenue Allocation Ordinance, certain terms are defined in this Section. The word "shall" is always mandatory and not merely advisory.

3.02. "Borrowing Authority" means authority expressly delegated by the Tribal Council by appropriation or ordinance that permits a tribal agent to incur obligations on behalf of the Tribe.

3.03. "Contract Authority" means delegated authority, included with the adoption of the tribal budget or an appropriation by resolution, which authorizes the Ogema or a tribal agent to enter

into contracts or other obligations. Such contracts may be for an extended period of time beyond the fiscal year in which it was entered.

3.04. “*Tribal Revenue*” means any funding generated by a business or enterprise, taxes, assessments or levies, or funding received from outside administrative agencies, including state or federal government.

3.05. “*Carry-over*” means the action by which funds related to grants and contracts are moved from one fiscal year to the next. Funds carried over do not constitute net revenue or net gaming revenue, but are included within tribal revenue.

3.06. “*Department*” means a discrete logical unit within the subdivisions of the Tribe which represents a single activity or related activities generated from a single office. Departments have individual budget account numbers allocated by the Accounting Department as approved in the budget by the Ogema and Tribal Council.

3.07. “*Unexpended Funds*” means those net revenues of the Tribe not utilized during a fiscal year and may include unbudgeted funds, if such funds are identified at the conclusion of the fiscal year.

3.08. “*Estimate of Projected Revenues*” means a document approved and submitted by the Board of Directors of an enterprise of the Tribe which contains a reasonable estimate of earnings of the enterprise for the next fiscal year of the enterprise and is used to develop the proposed Tribal budget.

Article IV. Balanced Budget

4.01. *Balanced Budget.* The tribal budget for the government of the Little River Band of Ottawa Indians shall be balanced.

4.02. *Funding Availability.* Unless specifically stated in an appropriation, all expenditures by tribal government operations are subject to funding availability.

4.03. *Conclusion of Fiscal Year.* Unexpended and carry-over funds at the end of the fiscal year may be reallocated in the next fiscal year pursuant to Section 5.05(f).

Article V. Tribal Budget Formulation and Transmittal

5.01. *General.* The Ogema is responsible for preparing and presenting the tribal budget proposal for approval by Tribal Council, in accordance with Article V, Section 5(a)(5) of the Tribal Constitution.

5.02. *Membership Input Through Tribal Council.* The Tribal Council shall set on its agenda, prior to the end of the first quarter of the fiscal year, a time period specifically for receiving comments on activities, programs, businesses, enterprises, or other activities of the Tribe under the current fiscal year’s Tribal budget. The Tribal Council shall forward this information to the Ogema for use in preparation of the budget for the next fiscal year. Provided that, such public hearing comments shall be transmitted to the Ogema no later than the last day of May.

5.03. *Estimated Projected Revenues - Tribal Enterprises.* Each enterprise of the Tribe shall, through its Board of Directors, submit an estimate of projected revenues for the next fiscal year by July 15th of each year to the Ogema, with a copy forwarded to the Tribal Council. The estimate of projected revenues shall include the following minimum information as identified in this section. The Board of Directors for the enterprise may elect

to include additional information which will be helpful in allowing the Ogema to interpret and apply the estimated projected revenues to the proposed Tribal budget.

- a. Total projected revenues for the enterprises fiscal year.
- b. Identification of the enterprise's fiscal year.
- c. Identification of the monthly projected revenues.
- d. Total projected distribution to the Tribe.
- e. Identification of monthly projected distributions to the Tribe.
- f. Other information determined necessary and appropriate by the Board of Directors of the enterprise.

5.04. *Formulation.* The Ogema shall prepare a proposal for the tribal budget for the upcoming fiscal year and shall submit the proposal to the Tribal Council for approval. Formulation of the tribal budget proposal shall consist of the following steps:

- a. The Ogema shall review current programs and enterprises', and boards, committees and commissions', objectives and results;
- b. The Ogema shall allocate net revenues as set forth in the Revenue Allocation Ordinance;
- c. The Ogema shall develop a summary of tribal priorities and objectives, which includes a narrative statement justifying the priorities and objectives proposed for all subdivisions, and shall request priorities and objectives from boards, committees and commissions which shall be included;
- d. The Ogema shall review previous appropriation actions to determine B
 1. if existing directives regarding program and enterprise development plans or plans for the delivery of governmental services require review and/or revision; or
 2. if progress is being made towards the goals established in such plans and/or if additional action or direction is necessary to fully complete such progress; and
- e. Review and consideration of directives or findings of independent audits, program audits, or assessments of program operations, management, internal controls or other findings or directives that promote the financial integrity of tribal government operations.

5.05. *Budget Hearing.* The Ogema shall present to the membership the proposed tribal budget for comment and review at a budget hearing no later than August 31st.

5.06. *Tribal Council Draft Budget Review Work Session.* The Ogema will present a draft budget to Tribal Council no later than the 15th day of September. The Tribal Council will review the tribal budget proposal in a work session, prior to formal submission for approval by Tribal Council, for the purpose of providing comment to the Ogema; and shall complete its review no later than September 30th. The Tribal Council may provide assistance and input during formulation of the tribal budget at the request of the Ogema.

5.07. *Composition of the Tribal Budget.* The tribal budget proposal shall consist of the following subsections:

- a. *Schedule of Allocation of Net Revenues and Net Gaming Revenues.* As set forth in the Revenue Allocation Ordinance, this subsection of the tribal budget proposal

shall contain the following information:

1. Estimated net revenues
2. Estimated net gaming revenues
3. Allocations to base funding as set forth in Section 4 of the Revenue Allocation Ordinance.

b. *Functional Responsibilities and Detail Expenditures*. Within this subsection of the tribal budget proposal, the Ogema shall describe the functional responsibilities and objectives for each subdivision and present detailed estimates of all proposed expenditures showing expenditures for corresponding items for the current and last preceding fiscal year, and explanation for increases and decreases proposed.

c. *Indebtedness*. Statements of the indebtedness, including bonds, of the Tribe, showing the debt redemption schedules and interest requirements, debt authorized and unissued, and the condition of any sinking funds.

d. *Anticipated Tribal Revenue*. Detailed estimates of all anticipated income of the Tribe from all sources including Self-Determination Act contracts, grants, assessments, taxes and revenue allocation funds, with a comparative statement of the amounts received by the Tribe for each of the same or similar sources for the last preceding and current fiscal year.

5.08. *Presentation of Tribal Budget Proposal to Tribal Council*. The tribal budget proposal shall be presented to the Tribal Council as set forth in section 5.06. Following consultation with the Tribal Council, the Ogema shall submit the tribal budget proposal, as revised, to the Tribal Council by October 31st. Based upon the budget hearings held by the Ogema and comments received from Tribal members, the Tribal Council may reconcile or adjust the budget requests from the Ogema with available funding from grants, contracts, Revenue Allocation Ordinance funds, and any other revenues.

5.09. *Enactment and Execution of Tribal Budget*.

a. The tribal budget for the next fiscal year shall be approved by the Tribal Council in the month of November.

b. Four (4) originals of the approved tribal budget shall be presented to the Ogema for his/her approval within seven (7) calendar days after its approval by the Tribal Council. The Tribal Council shall include with the approved tribal budget, a report detailing any line item increases, reductions, deletions or additions to the budget proposal submitted by the Ogema.

c. The Ogema shall approve or disapprove the tribal budget within seven (7) calendar days after the tribal budget has been submitted by the Tribal Council. If the Ogema approves the tribal budget, as presented, he/she shall sign the tribal budget and return a copy of the executed tribal budget to the Recorder.

d. If the Ogema, disapproves the tribal budget presented by the Tribal Council, he/she shall return it to the Recorder within the seven (7) day period provided in subsection (c), specifying the line item modifications he/she objects to.

e. The Tribal Council shall meet within fourteen (14) calendar days to reconsider the tribal budget and the Ogema's objections. If, after reconsideration, the Tribal Council again approves the tribal budget by an affirmative vote of six (6) of the nine

(9) Tribal Council members, the approved tribal budget shall be returned to the Ogema, who shall sign it notwithstanding his/her objections.

f. If, after reconsideration, fewer than six (6) Tribal Council members approve the budget, it shall be returned to the Ogema, without the amendments, who shall approve it.

5.10. *Tribal Court Budget.* Upon enactment of the Tribal Budget, that portion approved for the Tribal Court shall not be amended without the consent of the Tribal Court. Provided that, the Tribal Court shall:

a. follow functional budgeting policies as set forth in this ordinance and regulations adopted for the expenditure of funds; and

b. make all efforts to participate in budget reductions when determined necessary by Tribal Council and Ogema and where budget reductions are applied across the entire Tribal Budget.

Article VI. Administration of the Tribal Budget

6.01. *Monthly Budget Report.* In accordance with Article V, Section 5(a)(5) of the Constitution, the Ogema shall ensure that monthly financial reports are prepared and delivered to the Tribal Council describing the financial condition and needs of the Tribe.

6.02. *Quarterly Review of Budget by Tribal Council.* At the beginning of each quarter of the fiscal year, the Ogema shall submit to the Tribal Council a report showing the relation between the estimated and actual revenues to date; and if it shall appear that the income is less than anticipated, the Ogema may recommend, and the Tribal Council may approve, reductions in appropriations in any subdivision of the tribal budget, except amounts required for base funding and amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the cash income. If the revenues exceed, or if expenditures are less than, the amounts estimated, the Ogema may recommend supplemental appropriations or reallocation of funds. Quarterly reports shall be made available for inspection by tribal members as required by the Constitution.

6.03. *Budget Modifications; Authorization.*

- a. All modifications to approved budgets, which require supplemental appropriations, or which re-allocate funds from one department to another, must be approved by Tribal Council.
- b. Line item modifications within a program budget, which do not alter the scope of the program, but simply re-allocate funds appropriated to that department, may be approved by the Ogema without Tribal Council approval, provided that, the combined amount of individual modifications to a single program budget may not exceed 10% of the total original program budget. Modifications in excess of 10% of the total original program budget, or proposed modifications after reaching 10% of the total original program budget, require Tribal Council approval. The Ogema's authority to approve budget modifications as described above shall be non-delegable and must be exercised by the Ogema personally, provided however that the Ogema may delegate approval to the Chief Financial Officer and/or the Tribal Manager on a case-by-case basis.
- c. Any change in the scope of the program, such as the expansion or elimination of program activities, or any reduction in amounts appropriated for the purchase or provision of direct services to tribal members, must be approved by Tribal Council.

6.04. *Criminal Action.*

1. Funds. An officer, agent, servant, or employee of the Tribe who transfers or juggles the funds of the Tribe, or issue false checks, drafts, warrants, vouchers or other evidences of credit, shall be guilty of a misdemeanor and subject to a fine up to \$5000.00 and/or up to one year imprisonment.

2. Information. An officer, agent, servant, or employee of the Tribe who shall knowingly deliver, publish or give out for publication any false statement relating to the finances, funds, moneys, or balances in any fund of the Tribe shall be guilty of a misdemeanor subject to a fine up to \$5000.00 and/or up to one year imprisonment.

6.05. *Disbursements.* No funds appropriated by the Tribe shall be disbursed except by check or other banking instrument or process All disbursements shall be made pursuant to applicable procurement and disbursement policies approved by the Tribal Council.

6.06. *Carry-Over of Unexpended Balances.*

a. *Carry-Over of Federal Funds.* Funds remaining within the Indian Health Service, Bureau of Indian Affairs or other Special Revenue Fund program budgets will be analyzed by the Ogema. The reallocation of funds from grants and contracts to the next fiscal year will be subject to any applicable regulations or conditions; provided that Tribal Council approval shall be required for any extension or reallocation that amends the terms of any applicable grant or contract. The Ogema, will present recommendations for allocation of carry-over funds to the Tribal Council for approval.

b. *Revenue Allocation Funds.* Unexpended funds from the Revenue Allocation Ordinance will be reallocated under the procedure established in that ordinance.

c. *Time Frame for Reallocation of Unexpended Funds Process.* January 31st, or upon the date the accounting books of the Tribe are closed for the prior fiscal year, will be the cut-off date for processing program invoices. Invoices for expenditures authorized in the preceding fiscal year, which are outstanding after the cut-off date will be debited in the subsequent year. If unexpended funds are available, those funds will be used to cover those invoices. The recommendations from the Ogema regarding carry-over and unexpended fund use requests will be presented to the Tribal Council at a regular session in months of February and March.

6.07. *Depository Accounts.* The Tribal Council shall designate the depository account or accounts for tribal funds. At a minimum, separate accounts shall be required for General Fund and Special Revenue Funds.

Article VII. Audit and Review

7.01. *General.* Every tribal government operation has has the initial and fundamental responsibility to assure that its application of public funds adheres to the terms of the authorization under which such funds were appropriated, as well as applicable tribal, federal or state statutory provisions.

7.02. *Internal Audit.* The Internal Audit Department shall conduct periodic reviews to determine whether applicable accounting and internal controls, including internal audit functions, are appropriate and functioning for each tribal division, department, enterprise, commission or committee. Such internal audits shall examine the financial, management and program activities of tribal divisions, departments, enterprises, commissions and committees. Every tribal subdivision shall be included in the scope of an internal audit as defined in the Audit Ordinance.

7.03. *Report of Findings of Internal Audits.* Reports of internal audits shall be presented to the Tribal Council on a quarterly basis. Such reports shall include findings and recommendations for corrective action, or a summary of corrective actions taken. Reports shall also be transmitted to the appropriate division or agency.

7.04. *Responsibility for Completion of External Audit.* The Tribal Council, in consultation with the Ogema, shall be responsible for assuring that an audit of the financial statements of the tribal subdivisions, is prepared in a timely manner in compliance with applicable federal, state, or tribal regulations.

7.05. *Responsibility for Resolution of External Audit Recommendations.* The Ogema is directed to implement or, if appropriate, recommend to the Tribal Council, steps to resolve recommendations and findings of the external auditor within an appropriate period of time.

Article VIII. Authorizations; Signatures

8.01. *General.* This Section is intended to identify authorizations to expend funds and the use of signature processes other than when created by the authorized person.

8.02. *Authorizations.* Every two years after conclusion of the general elections, at a reasonable time following the swearing in of Tribal Councilors or a Ogema, the Tribal Council shall adopt a resolution which identifies:

- a. the person(s) who may sign checks or other banking instruments on behalf of the Tribe;
and

- b. the account(s) under which that person(s) is authorized to sign.

8.03. *Signatures.* Unless stated otherwise in this section, all signatures shall be original signatures not created by electronic or other mechanical means.

- a. Payroll checks may contain two electronic or mechanical signatures.